

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HORACE C. HOUSTON,

Petitioner,

v.

E.K. MCDANIELS, *et al.*,

Respondents.

Case No. 3:11-cv-00438-MMD-WGC

ORDER

The Court dismissed Petitioner Horace C. Houston's habeas corpus petition with prejudice in January 2012, and judgment was entered. (ECF Nos. 15, 16.) Petitioner appealed, and the Ninth Circuit Court of Appeals denied a certificate of appealability in April 2012. (ECF No. 20.)

Nearly eight years after the Ninth Circuit's denial, Petitioner filed a motion for relief from judgment under Rule 60(b) of the Federal Rules of Civil Procedure. (ECF No. 21.) The Court denied the motion on April 22, 2020. (ECF No. 26.) Petitioner has filed essentially a motion for reconsideration as to the denial of the motion for relief. (ECF No. 28.) As further explained below, the motion is denied.

Rule 60(b) entitles the moving party to relief from judgment on several grounds, including the catch-all category: "any other reason justifying relief." Fed. R. Civ. P. 60(b)(6). A motion under Rule 60(b) must be brought "within a reasonable time." Fed. R. Civ. P. 60(c)(1).

About two and one-half months after the Court denied Petitioner's motion for reconsideration, Petitioner filed a motion to amend. (ECF No. 28.) Despite Petitioner's contention in the motion that the Court "inadvertently overlooked" his new arguments that his original petition was timely filed, the Court considered Petitioner's first Rule

1 60(b) motion. The Court concludes—as it previously concluded—that Rule 60(b) relief is
2 not warranted.

3 It is therefore ordered that Petitioner’s second motion under FRCP 60(b) (ECF No.
4 28) is denied.

5 It is further ordered that a certificate of appealability is denied.

6 It is further ordered that Petitioner’s motion for extension of time to file a reply in
7 support of his motion (ECF No. 30) is granted *nunc pro tunc*.

8 It is further ordered that Petitioner’s motion for copies (ECF No. 31) is granted.

9 The Clerk of Court is directed to send Petitioner a copy of the filings (ECF Nos. 16,
10 21) that Petitioner has requested.

11 DATED THIS 31st Day of August 2020.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE